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U.S. DISTRICT COURT
DISTRICT OF MASS

October 18, 2004

VIA FEDEX

Honorable Edward F. Harrington
United States District Court for the
District of Massachusetts
John Joseph Moakley U.S. Courthouse
1 Courthouse Way, Room #19, 7th Floor
Boston, Massachusetts 02210

Re: Martha Kristian and James D. Masterman v. Comcast Corporation, et al.
Civil Action No. 03-CV-12466 EFH

Jack Rogers and Paul Pinella v. Comcast Corporation and AT&T Broadband
Civil Action No. 04-101142 EFH

Dear Judge Harrington:

I am writing in response to attorney Samuel D. Heins's letter of October 13, 2004 regarding the above referenced matter. Mr. Heins enclosed a recent decision issued by Judge Padova on a motion to compel arbitration entered on October 12, 2004 in a related case pending in the Eastern District of Pennsylvania.

While defendants disagree with Judge Padova's decision and anticipate appealing it, I would like to draw the Court's attention to matters in the record in these cases that make Judge Padova's decision distinguishable from the dispute at hand. In his order, Judge Padova found that "[i]t is, however, undisputed that Comcast did not give 30 days prior notice of the amendment adding the 2002/2003 [arbitration] clause to the Chicago Plaintiffs' cable services subscription agreement." Order at 8. In this case, Defendants relied upon the deposition of William Devine – the individual charged with providing consumer notices – in support of the Motion to Compel Arbitration. When Mr. Devine was asked when the arbitration clause would take effect, he responded:

[I]t would have been 30 days after [the notice] was received.

(Devine Deposition 9: 9-16).

Therefore, Judge Padova's decision is factually distinguishable from this case.

ALMATY ANKARA BANGKOK BEIJING BERLIN BRATISLAVA BRUSSELS BUDAPEST DRESDEN DÜSSELDORF FRANKFURT HAMBURG HELSINKI
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Should the Court require anything further, please do not hesitate to contact the undersigned.

Respectfully submitted,



Jaime A. Bianchi

JAB:mp

Via Facsimile:

cc: John Peter Zavez, Esq.
Alan Gilbert, Esq.
Samuel D. Heins, Esq.
Christopher M. Curran, Esq.
Christopher F. Robertson, Esq.